

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1417

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-353.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 353.5. "Training or educational purposes", for purposes of IC 16-39-7.1, has the meaning set forth in IC 16-39-7.1-1.5.**

SECTION 2. IC 16-39-7.1-1.5, IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. As used in this chapter, "training or educational purposes" means for the purpose of:**

- (1) teaching or giving lectures to:**
 - (A) medical students;**
 - (B) physicians;**
 - (C) coroners;**
 - (D) law enforcement personnel;**
 - (E) public safety personnel;**
 - (F) attorneys; or**
 - (G) an individual who relies upon information or records regulated under this chapter in the course of the individual's profession or occupation;**
- (2) publication in professional medical:**
 - (A) books; or**
 - (B) periodicals; or**



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(3) use in:**(A) training videos; or****(B) computer programs.**

SECTION 3. IC 16-39-7.1-3, AS ADDED BY P.L.271-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A surviving spouse may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this subsection. If there is no surviving spouse or parent, an adult child shall have access to the records.

(b) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(c) The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy for **case consultation with a pathologist or forensic scientist. The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording of the autopsy for training or educational purposes if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:**

(1) the name;**(2) the address;****(3) the Social Security number;****(4) a full view of the face; or****(5) identifying marks on the body that are unrelated to the educational purpose of the information or to the medical condition or the medical status;**

of the deceased individual. A physician who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the physician releases it that the information

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is confidential and may not be used for a purpose other than the purpose for which it was originally released. A physician who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(d) Except as provided in subsection (c), the physician having custody of a photograph, a video recording, or an audio recording of an autopsy may not permit a person to:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy without a court order.

(e) Information disclosed under subsection (c) is confidential.

SECTION 4. IC 16-39-7.1-6, AS ADDED BY P.L.271-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A provider who:

- (1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and
- (2) knowingly or intentionally violates this ~~section~~ chapter;

commits a ~~Class D felony~~. **Class A misdemeanor.**

(b) A person who knowingly or intentionally violates a court order issued under this ~~section~~ chapter commits a ~~Class D felony~~. **Class A misdemeanor.**

(c) A person who:

- (1) receives autopsy information under section 3(c) of this chapter; and
- (2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor.

SECTION 5. IC 36-2-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:

- (1) has died from violence;
- (2) has died by casualty;
- (3) has died when apparently in good health;
- (4) has died in an apparently suspicious, unusual, or unnatural manner; or
- (5) has been found dead;

he shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death.

(b) The coroner shall file with the person in charge of interment a

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coroner's certificate of death within seventy-two (72) hours after being notified of the death. If the cause of death is not established with reasonable certainty within seventy-two (72) hours, the coroner shall file with the person in charge of interment a coroner's certificate of death, with the cause of death designated as "deferred pending further action". As soon as he determines the cause of death, the coroner shall file a supplemental report indicating his exact findings with the local health officer having jurisdiction, who shall make it part of his official records.

(c) If this section applies, the body and the scene of death may not be disturbed until the coroner has photographed them in the manner that most fully discloses how the person died. However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it necessary to have an autopsy performed, **is required to perform an autopsy under subsection (f)**, or is requested ~~to do so~~ by the prosecuting attorney of the county ~~he to perform an autopsy~~, **the coroner** shall employ a physician:

- (1) certified by the American board of pathology; or
- (2) holding an unlimited license to practice medicine in Indiana and acting under the direction of a physician certified by the American board of pathology;

to perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars (\$50) from the county treasury. A coroner may employ the services of the medical examiner system, provided for in IC 4-23-6-6, when an autopsy is required, as long as this subsection is met.

(e) If:

- (1) at the request of:
 - (A) the decedent's spouse;
 - (B) a child of the decedent, if the decedent does not have a spouse;
 - (C) a parent of the decedent, if the decedent does not have a spouse or children;
 - (D) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or
 - (E) a grandparent of the decedent, if the decedent does not have a spouse, children, parents, brothers, or sisters;



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- (2) in any death, where two (2) or more witnesses who corroborate the circumstances surrounding death are present; and
- (3) two (2) physicians who are licensed to practice medicine in the state and who have made separate examinations of the decedent certify the same cause of death in an affidavit within twenty-four (24) hours after death;

an autopsy need not be performed. The affidavits shall be filed with the circuit court clerk.

(f) A county coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is at least one (1) week old and not more than three (3) years old unless an autopsy is performed at county expense. However, a coroner may certify the cause of death of a child described in this subsection without the performance of an autopsy if subsection (e) applies to the death of the child.

SECTION 6. IC 36-2-14-10, AS AMENDED BY P.L.271-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, his name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c), (d), and (e), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of ~~their~~

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official duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may **use or** allow the use of the photograph, video recording, or audio recording of the autopsy for **case consultation with a pathologist or forensic scientist. The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording for** training or educational purposes **(as defined in IC 16-39-7.1-1.5)** if all information that identifies the individual on whom the autopsy was performed is **masked or** removed from the photograph, video recording, or audio recording. **For purposes of this subsection, information that identifies an individual consists of:**

- (1) the name;**
- (2) the address;**
- (3) the Social Security number;**
- (4) a full view of the face; or**
- (5) identifying marks on the body that are unrelated to the medical condition or medical status;**

of the deceased individual. A coroner or coroner's designee who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the coroner or coroner's designee releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. Information disclosed under this subsection is confidential. A coroner or coroner's designee who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(f) **Except as provided in subsection (e),** the coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

- (1) view or copy the photograph or video recording; and**
- (2) listen to or copy the audio recording;**

of an autopsy without a court order.

(g) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and**
- (2) listen to or copy an audio recording;**

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(h) In determining good cause under subsection (g), the court shall

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consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and
- (4) the availability of similar information in other public records, regardless of form.

(i) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(j) A surviving spouse shall be given:

- (1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;
- (2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and
- (3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(k) If there is no surviving spouse, the notice under subsection (j) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(l) A coroner or coroner's designee who:

- (1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and
- (2) knowingly or intentionally violates this section;

commits a ~~Class D felony~~. **Class A misdemeanor.**

(m) A person who knowingly or intentionally violates a court order issued under this section commits a ~~Class D felony~~. **Class A misdemeanor.**

(n) A person who:

- (1) receives autopsy information under subsection (e); and
- (2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a **Class A misdemeanor.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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